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The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: West Coast Fire Service, Inc.

File: B-228170

Date: December 16, 1987

DIGEST

1. Protest that a Department of Labor (DOL) wage determination included in a solicitation for a service contract omitted wage rates for two classes of required employees is denied where contracting agency requested wage rates from DOL, and the administrative procedure set out in the solicitation for determining wages for omitted classes provided a reasonable and common basis for preparation of bids. To the extent protest concerns accuracy and completeness of wage determination, it should be pursued through DOL's administrative process for reviewing such matters, not through a bid protest to the General Accounting Office.

2. Where solicitation for fire prevention and protection services adequately explains agency needs and performance requirements, fact that agency has not provided information on the wages and fringe benefits being paid to government employees that currently are involved in providing the services does not render the solicitation inadequate for intelligent competition.

DECISION

West Coast Fire Service, Inc., protests that the Service Contract Act wage determinations incorporated into invitation for bids (IFB) No. DTCG23-87-B-60007, issued for fire prevention and protection services at the Coast Guard Support Center, Kodiak, Alaska, are incomplete. The IFB is part of a cost comparison to determine whether the services may be more economically performed by contract or in-house by government personnel. West Coast also argues that the

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IFB improperly omitted wage information on several positions currently staffed by agency employees, which hampered West Coast's ability to submit an intelligent bid.

We deny the protest.

West Coast first complains that the IFB's wage determination does not include a Fire Protection Inspector or a Fire Driver/Operator. The protester argues that without a wage determination for these classes of expected employees, bidders could not compete on a common basis.

The Service Contract Act, 41 U.S.C. § 351 (1982), requires federal contractors to pay minimum wages and fringe benefits as determined by the Secretary of Labor, to employees under service contracts. Department of Labor (DOL) regulations require an agency to provide DOL with notice of the intention to enter into a service contract and to list the classes of employees expected to be employed. 29 C.F.R. § 4.4 (1987). The Coast Guard did so in this case, listing six classes of prospective employees. The notice did include Fire Driver/Operator but did not include Fire Protection Inspector (although it included Fire Extinguisher Inspector). DOL's response did not list separate wage rates for these employees.

The IFB also incorporated a clause, required by DOL regulations, providing standards for the contractor to use in establishing wage and fringe benefit rates for any classes of employees omitted from the Service Contract Act wage determination. Pursuant to the clause, the contractor must take into account the knowledge and skill levels of workers not covered by the wage determination, compare them with the knowledge and skill levels of covered workers, and establish conforming wages. 29 C.F.R. § 4.6(b)(2).

We find that the Coast Guard complied with its obligation to obtain a wage determination for inclusion in the IFB, see Consolidated Marketing Network, Inc., B-219387, Sept. 3, 1985, 85-2 C.P.D. ¶ 262, and we have held that the procedures set forth in the IFB for contractors to establish wage and fringe benefits for omitted classes of employees provides a reasonable basis for bidders to estimate labor costs and to compete on an equal basis. See A & C Building and Industrial Maintenance Corp., B-196829, Mar. 31, 1980, 80-1 C.P.D. ¶ 238. While the absence of a particular wage determination might affect bid prices, all bidders will be affected equally. Moreover, the wage determinations specify minimum wages; they are not a guarantee that a bidder can employ the appropriate workforce at those rates. See Broken Lance Enterprises, Inc., B-201482, Mar. 17, 1981, 81-1 C.P.D. ¶ 203. Some risk is inherent in projecting costs,

and bidders are expected to allow for that risk in computing their bids. Id.

Further, to the extent that West Coast is questioning DOL's wage determination, such a challenge must be pursued through the administrative procedures established by DOL and set forth in title 29 of the Code of Federal Regulations, rather than through a bid protest to our Office. See Gerald Moving & Warehousing Co., B-225618, Jan. 14, 1987, 87-1 C.P.D. ¶ 59.


West Coast also argues that the Coast Guard had an obligation to provide wage and fringe benefit information for Fire Chief, Assistant Fire Chief and Gas-Free Engineer. West Coast contends that since the government currently staffs these positions, the contractor will have to staff them also and, therefore, a prospective contractor ought to be told what those individuals currently are paid.

The Coast Guard reports that government employee wage and fringe benefit information in the IFB was provided in accordance with Transportation Acquisition Regulation (TAR) 1252.222-75, with respect to service employees. The term "service employee" is defined by the regulation to exclude "any person employed in a bona fide executive, administrative, or professional capacity." The Fire Chief and Assistant Fire Chief, which the IFB identifies as key personnel positions, are reported to be supervisory in nature, are considered executive positions, and as such do not come within the definition of "service employees." Therefore, it is the Coast Guard's position that wage and fringe benefit information is not required under the applicable TAR provision with respect to the Fire Chief and Assistant Fire Chief positions. Further, the Coast Guard reports, there is no Gas-Free Engineer dedicated to the work in issue.

We find no merit to the protest on this matter. The lack of knowledge of the wages paid by the government to its employed Fire Chief and Assistant Fire Chief does not prevent bidders from competing intelligently and on an equal basis. Firms are expected to use their experience and business judgment in preparing their bids, which necessarily includes determining what wages to pay employees. Although a bidder would find such wage information useful in constructing its bid, the government is not required to release all information, or to provide all details, in order to

remove all uncertainties. See Aleman Food Service, Inc.,
B-219415, Aug. 29, 1985, 85-2 C.P.D. ¶ 249.

The protest is denied.

 *James F. Hinchman*
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General Counsel